

Atty LeVan, Nancy J. (for Petitioner Charles Hudiburgh, Successor Conservator)
 Atty Sanoian, Joanne (Court-appointed for Conservatee)

Probate Status Hearing Re: Filing of Second Account

DOD: 4/27/2012		<p>CHARLES HUDIBURGH, son, was appointed Successor Conservator of the Estate on 6/11/2008.</p> <p>Order Approving First Amended First Account and Report of Successor Conservator; Petition for Allowance of Fees for Attorney was filed on 5/16/2011.</p> <p>First account period was 6/11/2008 through 12/22/2009.</p> <p>Second account for the period beginning 12/23/2009 is currently due.</p> <p>Notice of Status Hearing filed 1/4/2012 set a status hearing on 3/7/2012 for failure to file the second account. Clerk's Certificate of Mailing shows notice was mailed to Charles Hudiburgh and to Attorney Nancy LeVan on 1/4/2012.</p> <p>Status Report Re: 2nd Accounting filed on 3/6/2012 states:</p> <ul style="list-style-type: none"> • She received the Notice of Status Hearing filed 1/4/2012 [date notice received not stated]; • Her paralegal sent a copy of the Notice of Status Hearing to Chuck [Conservator of the Estate] on 1/9/2012; • They have tried to call Chuck [dates of attempts to call not stated] to make an appointment to go over the finances to prepare the second accounting, with no response; • She has sent an email to Chuck [date of email not stated] to see if he will be attending the hearing tomorrow [3/7/2012]; • She has not received a response as of writing this report. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Page 1B is the Order to Show Cause issued to Attorney Nancy LeVan and Conservator Charles Hudiburgh.</p> <p>Continued from 4/4/2012. Minute Order states the Court notes for the record that neither Ms. LeVan nor her clients are present. The Court sets the matter for an Order to Show Cause on 5/9/2012 regarding the proposed sanctions in the amount of \$500.00. (Please refer to Page 1B.)</p> <p>The following issue from the last hearing remains:</p> <ol style="list-style-type: none"> 1. Need second account or current status report pursuant to Local Rule 7.5(B).
Cont. from 030712, 040412			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Atty LeVan, Nancy J. (for Petitioner Charles Hudiburgh, Successor Conservator)

Atty Sanoian, Joanne (Court-appointed for Conservatee)

Order to Show Cause Re: Proposed Sanctions in the Amount of \$500

DOD: 4/27/2012		<p>CHARLES HUDIBURGH, son, was appointed Successor Conservator of the Estate on 6/11/2008.</p> <p>Notice of Status Hearing filed 1/4/2012 set a status hearing on 3/7/2012 for failure to file the second account, which is currently due for the period beginning 12/23/2009. <i>Clerk's Certificate of Mailing</i> shows notice was mailed to Charles Hudiburgh and to Attorney Nancy LeVan on 1/4/2012.</p> <p>Minute Order dated 3/7/2012 states the Court indicates for the record that Ms. LeVan has requested a continuance. The Court continues the matter to 4/4/2012 and orders Ms. LeVan be present with an explanation as to where Charles Hudiburgh is and why the accounting has not been done. Additionally, the Court directs that Ms. Sanoian make the necessary inquiries to determine if the Conservatee is being properly cared for. Matter continued to 4/4/2012.</p> <p>Minute Order dated 4/4/2012 states the Court notes for the record that neither Ms. LeVan nor her clients are present. The Court sets the matter for an <i>Order to Show Cause</i> on 5/9/2012 regarding the proposed sanctions in the amount of \$500.00. The Court orders Ms. LeVan and Charles Hudiburgh to be present on 5/9/2012. The Court further orders the investigator to check on the well-being of Claud Hudiburgh. Ms. Horton informs the Court that Ms. Sanoian would like to be removed as counsel.</p>	NEEDS/PROBLEMS/COMMENTS:
Cont. from			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Reviewed by: LEG
Reviewed on: 4/30/12
Updates:
Recommendation:
File 1B – Hudiburgh

Atty Walker, Keith S. (of Claremont, for Nitza Peña, Administrator)

**Probate Status Hearing Re: Failure to File Inventory and Appraisal and
Failure to File a First Account or Petition for Final Distribution**

DOD: 6/12/1995		<p>NITZA PEÑA, niece, was appointed Administrator with Limited IAEA on <u>12/6/1995</u> with bond fixed at \$20,000.00.</p> <p>Proof of Bond posted in the amount of \$20,000.00 was filed on 12/15/1995, and <i>Letters</i> issued on that date.</p> <p>The Inventory and Appraisal was due on 3/15/1996. The first account or petition for final distribution was due on 12/15/1996.</p> <p>Proof of Service by Mail – Failure to File Inventory and Appraisal was filed on 5/20/1996 indicating the notice of failure to file an inventory and appraisal, a first account or petition for final distribution was mailed to Attorney Keith Walker on 5/20/1996.</p> <ul style="list-style-type: none"> Court file contains no record of any response by Attorney Walker to this notice (no hearing date was set by the Court; notice was a courtesy to Attorney.) <p>Notice of Status Hearing filed on 7/28/2010 set a status hearing on 9/9/2010 for failure to file the inventory and appraisal, and failure to file a first account or petition for final distribution. Clerk's Certificate of Mailing shows the Notice was mailed to Keith S. Walker on 7/28/2010.</p> <p>Minute Order dated 9/9/2010 [Judge Gallagher] states Attorney Walker represents to the Court that he lost contact with his client for a period of time but has now obtained a current address and should be able to close the estate quickly as the property has been lost. If the accounting is filed, no appearance is necessary on 12/6/2010.</p> <p>Minute Order dated 12/06/10 [Judge Hamlin] states Attorney Walker states his intention to file a Petition to Set Aside in this matter and requests a continuance. If said petition is filed, then no appearance is necessary on 1/27/2011.</p> <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS</p> <p>Page 2B is the <i>Petition for Family Allowance</i> filed on 3/20/2011.</p> <p>Continued from 3/21/2012. Minute Order states Mr. Walker is appearing via conference call. The Court directs counsel to put the bonding company on notice. The matter is continued to 5/9/2012. The Court orders that the hearing currently set for 5/3/2012 be vacated and rescheduled for 5/9/2012.</p> <p>Note: An Amended Creditor's Claim was filed in this case on 6/21/1996 by Valley Medical Center [now Community Medical Center] for \$198,043.68.</p> <p>Note: Final Inventory and Appraisal was filed on 3/20/2012. (See Issue #2.)</p> <p>~Please see additional page~</p> <p>Reviewed by: LEG</p> <p>Reviewed on: 5/4/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 2A - Vaughn</p>
Cont. from: 090910, 120610, 012711, 040611, 060711, 090611, 110811, 121311, 020812, 032112			
Aff.Sub.W			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv			
Conf. Screen			
Letters			
Duties/S			
Objection			
Video Receipt			
CI Report			
9202 Order			
Aff. Post			
Stat Rpt			
UCCJEA			
Citation			
FTB Notc			

Notes from the previous status hearings, continued:

- *Minute Order* dated 1/27/2011 [Judge Oliver] states Counsel is directed to file the inventory with the petition. If filed by 4/6/2011 and reviewed by an examiner no appearance will be necessary.
- *Minute Order* dated 4/6/2011 [Judge Oliver] states Mr. Walker is appearing via conference call. Counsel advises the Court that he has managed to re-establish contact with his client and has made contact with an attorney in San Diego. Counsel further advises that he will be filing a Petition for Family Allowance.
- *Minute Order* dated 6/7/2011 [Judge Oliver] states Mr. Walker is appearing via conference call. Counsel requests a continuance. Matter continued to 9/6/2011.
- *Minute Order* dated 9/6/2011 [Judge Oliver] states Keith Walker states that he has had a medical procedure keeping him away from court. Mr. Walker requests a continuance, stating, for example, a pending creditor's claim. The Court notes the creditor's claim and understands the matter will be finished at the next court hearing of 11/8/2011.
- *Minute Order* dated 11/8/2011 [Judge Oliver] states Mr. Walker is appearing via conference call. Mr. Walker informs the Court that he has the Petition for Family Allowance largely prepared, but needs a continuance due to medical issues. Matter continued to 12/13/2011.
- *Minute Order* dated 12/13/2011 states Mr. Walker appears by CourtCall. Mr. Walker advises the Court that he should have the petition filed by the end of this year.
- *Minute Order* dated 2/8/2012 states Keith Walker appears via Courtcall. Court orders Mr. Walker and Ms. Pena to personally appear if the Inventory and Appraisal is not filed by the next hearing on 3/21/2012.

The following issues remain to be addressed by Attorney Walker:

1. *Proof of Service by Mail of the Notice of Hearing* filed on 5/4/2012 shows notice was mailed on 4/24/2012 to American Contractors Indemnity Company in Los Angeles. *Proof of Bond* filed 12/15/1995 indicates **Highlands Insurance Company** is the bond company that issued the **\$20,000.00** bond to Petitioner. Further, Highlands Insurance Company filed on 10/5/2001 a *Notice of Change of Address* indicating an address in Van Nuys. Need explanation as to the reason American Contractors Indemnity Company was sent notice, and/or proof that American Contractors Indemnity Company issued and currently holds the **\$20,000.00** bond to the Petitioner, or proof of service by mail of notice to Highlands Insurance Company, Southern California Bonding Service, Inc., **per Court records indicating that Highlands Insurance Company issued the \$20,000.00 bond to Petitioner.**
2. *Final Inventory and Appraisal* filed on 3/20/2012 does not comply with Probate Code § 8802 which provides the inventory and appraisal shall separately list each item and shall state the fair market value of the item at the time of the Decedent's death. *Final Inventory and Appraisal* filed on 3/20/2012 shows an estate value of **\$9,080.37** cash. However, this value appears not to reflect a correct estate value as of the date of Decedent's death of 6/12/1995, based upon the following:
 - a. Initial *Petition for Probate* filed 10/31/1995 indicated an estimated value of the estate of **\$62,000.00, consisting of real property (\$42,000.00) and personal property (\$20,000.00);**
 - b. *Order for Probate* filed 12/6/1995 fixed bond at **\$20,000.00**; proof of bond was filed 12/15/1995, and *Letters* issued on that same date;
 - c. Administrator Nitza Pena was authorized for **Limited IAEA Authority only.**
3. Need petition for final distribution pursuant to Local Rule 7.5(B) and (C).

Atty Walker, Keith S., sole practitioner of Claremont (for Nitza Peña, Administrator)

Petition for Family Allowance (Probate Code 6541(b)(2))

DOD: 6/12/1995		<p>NITZA PEÑA, niece and Administrator with Limited IAEA, is Petitioner.</p> <p>Petitioner requests a family allowance for the support and maintenance of the Decedent's children, stating as follows:</p> <ul style="list-style-type: none"> The <i>Final Inventory and Appraisal</i> of the estate filed with the Court [on 3/20/2012] shows the total value of the estate to be \$9,080.37; Of that sum, \$545.25 has been paid to counsel for Petitioner as reimbursement for costs advanced; The remaining \$8,535.12 has been turned over to the State Controller as unclaimed property; Petitioner and her counsel are submitting claims to the State Controller in order to recover the property on behalf of the estate; Valley Medical Center of Fresno [now Community Medical Center] filed a claim for \$203,464.43 on 12/16/1995, and an amended claim for a reduced amount of \$198,043.68 on 6/21/1996; the latter claim reflects a reduction of \$4,600.95 for one or more payments from insurance and a further adjustment of \$819.80 which accounts for the difference in the outstanding balance; Petitioner allowed the claim in full; The estate is insolvent; Decedent was survived by seven children, all of whom were still minors at the time of her death [on 6/12/1995]; all of Decedent's children are now adults except for one, KAREN SHIRLEY VAUGHN, who will attain the age of majority on 6/12/2012; Decedent's children are her heirs at law and succeed to her entire estate under Probate Code § 6402(a); <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: It appears Petitioner and/or Attorney Walker intend this <i>Petition</i> to be brought under Probate Code § 6540(b)(2) rather than 6541(b)(2) as stated in the caption of the <i>Petition</i>.</p> <ol style="list-style-type: none"> <i>Notice of Hearing</i> filed 5/4/2012 contains the incorrect hearing time of 8:30 a.m. rather than 9:00 a.m. Due to this defect in notice, Court may be required to continue this hearing and may require <i>Amended Notice of Hearing</i> and proof of service by mail to all interested parties of the <i>Amended Notice of Hearing</i> containing the continued hearing date and correct time. <i>Proof of Service By Mail</i> filed 5/4/2012 does not show notice was mailed pursuant to Probate Code § 1220(a)(2)(A) to Nitza Peña, Administrator. <p align="center">~Please see additional page~</p>	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			W/
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
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<input type="checkbox"/>	Citation			
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Petitioner states, continued:

- Because all of Decedent's children were minors at the time of her death, they are entitled under Probate Code § 6540(a)(2) to a reasonable family allowance out of the estate for their maintenance;
- Petitioner requests an allowance for each of Decedent's seven children of **\$100.00 per month for a period of one year only [from 6/12/1995 to 6/11/1996], retroactive to the date of Decedent's death, for a total allowance of \$8,400.00**, in keeping with Probate Code §§ 6542 and 6543(a);
- Petitioner submits that such an allowance is so modest as to be reasonable as a matter of law and recognizes that not even the full **\$8,400.00** will be available for purposes of the allowance after costs of administration are paid;
- Being minors at the time of Decedent's death, her children had no substantial income of their own during the first year after the date of death.

Petitioner prays for an order: Granting a family allowance for the support and maintenance of each of the Decedent's seven surviving children in the sum of **\$100.00** per month for the period from 6/12/1995 to 6/11/1996, for a total of **\$1,200.00** per child and a total allowance of **\$8,400.00**, subject to the priority of other debts as provided in Probate Code § 11420(a).

Memorandum of Points and Authorities in Support of Petition for Family Allowance filed 5/4/2012 by Attorney Walker states [case law authority and citations omitted]:

- The total value of the estate is just **\$9,080.37** as set forth in the *Final Inventory and Appraisal* filed on 3/20/2012;
- The only creditor's claim is that of Valley Medical Center [now Community Medical Center] for **\$198,043.68**, which has been allowed in full;
- The estate will therefore be insolvent whether the family allowance is granted or not;
- Entitlement to a Family Allowance: the right to a family allowance is purely statutory and does not depend on the status of the claimant as an heir or devisee; rather it rests upon the right of the claimant to support at the time of the decedent's death; even a spouse or minor child who has been totally disinherited is entitled to a family allowance;
- A family allowance is preferred to most other claims (Probate Code § 750) and upon proper application, it must be granted even if the estate is insolvent;
- Under Probate Code § 11420(a), a family allowance must be paid before the general debts of the estate;
- The mere passage of time, even more than a decade and a half, does not affect the right of a surviving spouse or child to a family allowance; nor does the fact that the children have attained their majority since the decedent's death; the granting or withholding of support for [an] estate is not a matter within the discretion of the probate court, though the court has a broad discretion in determining the reasonableness and necessity of the family allowance;
- Where the estate is insolvent, as here, the family allowance may not continue for more than one year after the granting of letters per Probate Code § 6543(a);
- Where no allowance has been previously granted, however, the decedent's children are still entitled to an allowance so long as it does not extend beyond the first anniversary of the first issuance of letters;
- The amount requested for each of the decedent's children is, under the circumstances of this case, entirely reasonable, and the Court should grant the petition.

~Please see additional page~

NEEDS/PROBLEMS/COMMENTS, continued:

3. Initial *Petition for Probate* filed 10/31/1995 indicated an estimated value of the estate of **\$62,000.00**, consisting of real property valued at **\$42,000.00** and personal property valued at \$20,000.00. *Petition for Family Allowance* does not provide any explanation for the discrepancy in estate value which is now stated to be **\$9,080.37** consisting of cash and a refund check. *Final Inventory and Appraisal* filed on 3/20/2012 does not comply with Probate Code § 8802 which provides the inventory and appraisal shall separately list each item and shall state the fair market value of the item at the time of the Decedent's death. *Final Inventory and Appraisal* filed on 3/20/2012 shows an estate value of **\$9,080.37** cash. However, this value appears not to reflect a correct estate value as of the date of Decedent's death of 6/12/1995, based upon the following:
 - a. Initial *Petition for Probate* filed 10/31/1995 indicated an estimated value of the estate of **\$62,000.00, consisting of real property (\$42,000.00) and personal property (\$20,000.00)**;
 - b. *Order for Probate* filed 12/6/1995 fixed bond at **\$20,000.00**; proof of bond was filed 12/15/1995, and Letters issued on that same date;
 - c. Administrator Nitza Pena was authorized for **Limited IAEA Authority only**.
4. *Petition for Family Allowance* states the estate is **insolvent**, but provides no facts or information as to how the estate came to that condition **since the inception of this estate in 1995**. Need further information as to the acts and transactions of the Administrator and the Attorney occurring during administration of the estate that resulted in its becoming insolvent.
5. *Petition for Family Allowance* states **\$8,535.12** has been turned over to the State Controller as unclaimed property without providing any explanation as to the reason estate property was not marshaled and protected by the Administrator nor the Attorney as required.
6. *Petition for Family Allowance* states the Petitioner allowed in full the Valley Medical Center [now Community Medical Center] claim of **\$198,043.68** filed on 6/21/1996. Need *Allowance of Creditor's Claim* (form DE-174) and associated service for this claim pursuant to Probate Code § 9250.
7. *Petition for Family Allowance* states **\$545.25** has been paid to counsel for Petitioner as reimbursement for costs advanced, but does not provide an itemized declaration pursuant to Local Rule 7.17(C) for the Court in its discretion to consider as allowable costs advanced.
8. *Petition for Family Allowance* states Decedent's seven children are currently all adults except for one minor daughter who will reach age 18 on 6/12/2012. ***Petition gives no details or support as required for the Court to determine the reasonableness and necessity of maintenance according to the circumstances during administration of the estate for Decedent's adult children, such that they were actually dependent in whole or in part upon the Decedent for support as required by Probate Code § 6540(b)(1).*** *Petition* provides no explanation for making such claim for family allowance "after the fact" for adult heirs who were minors at the date of death on 6/12/1995. Attorney Walker has not demonstrated in his *Petition for Family Allowance* nor in his *Memorandum of Points and Authorities* that his request meets threshold Probate Code 6540(b)(1) showing reasonableness and necessity of maintenance, and the propriety of this request at the present time for Decedent's adult children. Need further details and legal authority to support this request for family allowance.

(1) First Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney

Age: 85 DOB: 01/22/26	PUBLIC GUARDIAN , Conservator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 03/28/12</u>
	Account period: 01/17/07 – 07/14/11	Note: Due to the anticipated sale of several more properties owned by the Conservatee within the next year, Petitioner requests that a status hearing for the next account be set out 14 months instead of the usual 26 months.
Cont. from 110911, 012512, 032812	Accounting - \$1,979,239.77 Beginning POH- \$1,525,346.46 Ending POH - \$924,262.38	A Report of Sale and Petition for Order Confirming Sale is set for hearing on 05/31/12.
Aff.Sub.Wit.	Conservator - \$19,012.78 (116.35 Deputy hours @ \$96/hr. and 103.20 Staff hours @ \$76/hr.)	
✓ Verified	Attorney - \$9,540.00	
Inventory	Bond fee - \$546.98 (ok)	
PTC	Costs - \$239.00 (certification of Letters)	
Not.Cred.	Petitioner prays for an Order:	
✓ Notice of Hrg	1. Approving, allowing and settling the first account;	
✓ Aff.Mail w/	2. Authorizing the conservator and attorney fees and commissions; and	
Aff.Pub.	3. Authorizing payment of the bond fee.	
Sp.Ntc.	Court Investigator Samantha Henson's report was filed 08/22/11.	
Pers.Serv.	Declaration of Heather Kruthers filed 01/19/12 states that they will need a 60 day continuance to prepare and file an amended account.	
Conf. Screen	Declaration of Deputy Public Guardian Gary Healy Re: Examiner Notes for the First Account filed 03/27/12.	
Letters	Continued on Page 2	
Duties/Supp		Reviewed by: JF
Objections		Reviewed on: 05/01/12
Video Receipt		Updates:
✓ CI Report		Recommendation:
2620(c) n/a		File 3 - Hart
✓ Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

1. The accounting reflects several disbursements to Anjaleoni Enterprises and/or Sundari Kendakur that the court may require further explanation/clarification as follows:
 - a. **Charges for live in care from 01/29/07 – 04/21/11 vary each month and range from \$3,325.00 to \$8,525.00 per month. It is unclear why there is such a variation in the cost of the care from month to month.**

Declaration of Deputy Public Guardian Gary Healy filed 03/27/12 states: While living in her own home, Conservatee had 24 hour care. The cost of the in home care was \$8,525/month. The fluctuation in costs from \$3,325 to \$8,525 was due to lack of assets to pay the full amount each month. The company hired by the Conservator, Anjaleoni Enterprises, agreed to receive payment when the conservatee could pay, thus the fluctuations in payment amount. The Conservatee has since been moved and her cost of care is now \$3,000.00 per month.

- b. **There is a late fee in the amount of \$300.00 for board & care in 05/2011.**

Declaration of Deputy Public Guardian Gary Healy filed 03/27/12 states: Rent is due at the board and care home where the conservatee moved on the 5th of each month. The Public Guardian made a check for the rent on 05/05/11; however, the board and care owner did not receive the payment until 05/07/11, thus incurring a 10% late fee.

- c. **There are several disbursements from 01/29/07 – 02/24-11 for “Coins for Laundry” totaling \$644.00.**

Declaration of Deputy Public Guardian Gary Healy filed 03/27/12 states: The Austin Way property owned by the Conservatee and where she previously lived had a coin operated washer and dryer. The Public Guardian paid Anjaleoni for some of Conservatee’s needs with coins taken from the washer and dryer.

- d. **Transportation service was billed to the conservatee from 01/29/07 – 02/24/11 ranging from \$480.00 - \$1,725.00 per month (most months are well over \$1,000) (totaling \$53,225.00). This was during the same time frame that the conservatee is paying (the same person/entity) for full time care. The Court may require more information about the reasonableness of these fees.**

Declaration of Deputy Public Guardian Gary Healy filed 03/27/12 states: Despite her progressing dementia, the Conservatee was active and it was necessary to provide stimulation and outings that would maintain a healthy lifestyle for her. The Conservatee did not have a car, and after researching the options, it was determined that private transportation service was the best option for the Conservatee. The \$1,000.00/month averages \$50.00/day to transport the Conservatee to her activity center, lunches, shopping and other outings. The amounts varied because some months the Conservatee was sharing the cost of transportation with another conservatee that attended the same activity center.

- e. **“Shopping Fees” were paid by the conservatee from 03/04/10 – 03/30/11 ranging from \$195.00 - \$325.00 per month (totaling \$3,900.00). This is also during the time when the conservatee was also paying (the same person/entity) for full time care and transportation. The Court may require more information as to the reasonableness of these fees.**

Declaration of Deputy Public Guardian Gary Healy filed 03/27/12 states: The private care giver fee was only for care giving and did not include shopping. Hiring a separate company to buy groceries would cost more than the care provider company to do the shopping. Other companies charge a minimum of three hours at approximately \$20-25/hr.

First and Final Accounting

DOD: 2-28-06	MARIE E. DONALDSON and MAYNARD E. GOINS, Co-Executors, are Petitioners.
Aff.Sub.Wit.	Account period: ????
✓ Verified	Beginning POH: \$287,370.38 (per I&A filed 3-15-12)
✓ Inventory	Ending POH: ????
✓ PTC	Co-Executors (Statutory): ????
Not.Cred.	X Attorney (Statutory): ????
Notice of Hrg	X Costs: ????
Aff.Mail	X Closing: ????
Aff.Pub.	Distribution pursuant to Decedent's will and Receipts filed 3-29-12:
Sp.Ntc.	Marie E. Donaldson: <ul style="list-style-type: none">\$54,388.19 cashA 50% ownership interest in the real propertyApprox. ½ of the furniture, furnishings, costume jewelry, dishes and flat ware in the estate\$320 filing fee\$316.50 publication fee
Pers.Serv.	Maynard E. Goins: <ul style="list-style-type: none">\$54,388.18 cashA 50% ownership interest in the real propertyApprox. ½ of the furniture, furnishings, costume jewelry, dishes and flat ware in the estate\$460 reimbursement for Hume Lake Expensed
Conf. Screen	
✓ Letters	11-27-06
Duties/Supp	
Objections	
Video Receipt	
CI Report	
9202	X
Order	X
Aff. Posting	
Status Rpt	
UCCJEA	
Citation	
FTB Notice	X

NEEDS/PROBLEMS/COMMENTS:
1. Need amended accounting pursuant to Probate Code §1060 or waiver of account / petition for final distribution pursuant to Probate Code §10954. This petition is not in compliance with Probate Code §1060 et seq., as an accounting and does not contain the verified statements or schedules required for review of a petition for final distribution as a waiver of accounting pursuant to Probate Code §§ 10954 or §11640. This petition consists only of a face page verification with attached spreadsheets/ ledgers and does not make any statements regarding appropriate notice pursuant to Probate Code §9202 (Franchise Tax Board, Dept. of Health Care, etc.), or contain other mandatory statements or schedules, etc.
2. It appears pursuant to the receipts filed that the estate has already been distributed in advance of court order in violation of Probate Code §§ 11620, 11640, Cal. Rules of Court 7.651, etc. Pursuant to the will, Co-Executors Marie Donaldson and Maynard Goins are the sole heirs; however, it is unknown if the appropriate actions were taken with regard to notice to creditors, agencies, etc., as required by the Probate Code and Cal. Rules of Court.
3. The document is verified by only one of the two Co-Executors. Therefore, need proof of service of Notice of Hearing or waiver of notice from the other Co-Executor / heir.
4. Need Order pursuant to Local Rule 7.6.1.
5. Petitioners submitted an Ex Parte Petition for Final Discharge and Order. Petitioners cannot be discharged until the estate is closed pursuant to applicable law. Examiner notes that the Ex Parte Petition is incomplete at #2c regarding recording information, as this cannot be completed until the final order is entered and recorded. The document submitted is in the file for return to the Petitioners and Petitioners should resubmit upon entry of the final order (after amendment pursuant to the above issues).
Reviewed by: skc
Reviewed on: 5-1-12
Updates:
Recommendation:
File 4 - Goins

Atty Motsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)

Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)

Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)

Status Re: (1) Petition Requesting Relief for Breach of Fiduciary Duty; and (2) for an Accounting and (3) for Conversion of Personal Property and (4) for Elder Abuse and (5) for Damages

Age: 89 years		PUBLIC GUARDIAN , Conservator of the Person and Estate, is Petitioner. Petitioner states: <ul style="list-style-type: none"> The Conservatee was at all relevant times a dependent adult under the care, custody and control of Respondent, VIRGINIA "GINGER" GREGGAINS, daughter; The Conservatee was not competent or capable of handling her personal finances or financial affairs and was entirely dependent upon Respondent to do so for her; Respondent had a confidential relationship with the Conservatee and her husband, ELMER FLY (DOD 11/8/2008), as their child; Petitioner alleges Respondent was responsible in some manner for the occurrences alleged herein and the damages proximately caused thereby; Elmer and the Conservatee executed a DECLARATION OF TRUST, ELMER V. AND JULIA B. FLY, naming Respondent as Successor Trustee; the Trust was amended several times, the latest being the <i>Third Amendment</i> dated 3/24/2008 (copy of Restated Trust and two subsequent amendments attached as Exhibits A, A-1 and A-2); Petitioner has no knowledge if there was an intervening amendment between the <i>Restatement of Trust</i> dated 9/25/2000 and the <i>Second Amendment</i> dated 2/7/2008; <p align="center">~Please see additional page~</p>	NEEDS/PROBLEMS/COMMENTS: Page 5B is Second Account Current and Report of Conservator, etc. filed 2/14/2012 by Public Guardian. Page 5C is Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, etc., and Objection to Second Account of Conservator filed 3/26/2012 by Virginia Greggains. Continued from 4/17/2012. Minute Order states Counsel advises the Court that they have a meeting next week to review the information. Notes for background: <ul style="list-style-type: none"> Minute Order dated 2/16/2012 from the Status Conference on this Petition Requesting Relief states the Court advises both counsel that the matter is off calendar. Mr. Knudson informs the Court that he is working on a response to Mr. Motsenbocker's Petition Requesting Relief. Minute Order dated 10/12/2011 states that Mr. Knudson informs the Court that the Public Guardian is looking to move Ms. Fly to another facility with lower costs. The Court sets the matter for Status Conference on 1/12/2012. Mr. Knudson is to file his written objections.
DOB: 8/11/1922			
Cont. from 021612, 041712			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	W/		
✓ Summons			
✓ Sp.Ntc.	W/		
✓ Pers.Serv.	W/		
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order	X		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
Reviewed by: LEG			
Reviewed on: 5/4/12			
Updates:			
Recommendation:			
File 5A - Fly			

Petitioner states, continued:

- Respondent has been the sole Successor Trustee of the Trust since December of 2007 or early 2008, and she acted in several matters on behalf of the Conservatee and Elmer using General Durable Powers of Attorney (*copy attached as Exhibit B*);
- Petitioner possesses certain transactional documents and forms which Respondent signed in her capacity as "power of attorney in fact" in which she indicated she held the power for both Conservatee and Elmer, and these transactional documents conclusively establish that Respondent was acting in a fiduciary capacity for Conservatee;
- Petitioner possesses copies of a number of checks written on an account in the names of Conservatee, Elmer, and Virginia "Ginger" Greggains (Respondent); the transactions in this account are the prime source of a number of questionable expenditures made by Respondent from Conservatee's funds; the address on the checks is the personal residence of Respondent; a number of checks were written, signed and made payable to Respondent as well as to Respondent's husband, **STEPHEN ROY GREGGAINS**, each in the amount of **\$5,000.00**;
- In early 2008, Respondent contacted **SOUTAS & ASSOCIATES**, a firm engaged in Medi-Cal planning services, and in connection with the consultation, Respondent agreed to purchase an annuity on behalf of Conservatee and signed an application for an annuity with OM Financial Life Insurance on 5/29/2009 of **\$159,983.79**;
- On the annuity application, Respondent stated Conservatee held cash and investment accounts valued at **\$357,000.00**; the application contains handwritten entries detailing **\$82,000** in "Investment Experience and Holdings," **\$200,000** in "Money Market" accounts, and **\$75,000** in "Other Mutual Funds" accounts;
- As of 9/12/2008, the date of **PUBLIC GUARDIAN'S** appointment as temporary conservator, Respondent surrendered **~\$231,000.00** in accounts, and it appears that **\$120,000.00** in cash and investments accounts asserted to have existed by Respondent in May 2008 is missing;
- **Respondent should be ordered to account for all of the cash and investment accounts held by Conservatee from 12/1/2007 to the date Respondent surrendered the assets in her possession to the Public Guardian;**
- Respondent arranged for the removal and disposition of jewelry, motor vehicles, household furniture and furnishings, and several personal property items belonging to the Conservatee contained in her personal residence, in anticipation of the sale of the residence by Respondent; Petitioner alleges Respondent personally took and/or made gifts to family members of a number of the items from the residence, she sold some of the personal property at several yard sales, and she did not account to the principals for any of the proceeds or disposition of the items;
- Petitioner alleges that Respondent made gifts of motor vehicles that belonged to the Conservatee to family members without consideration; she removed and disposed of a number of plants growing on the residential property of Conservatee which are believed at the time to be worth thousands of dollars; she used funds belonging to the Conservatee to purchase and make improvements on her own residence, to make the down payment on a personal vehicle for herself, and to pay off a personal loan that she and her husband owned on a travel trailer;
- The Conservatee's financial status at present is tenuous at best; her annuity payments and monthly income are sufficient to fund her care for ~2 years; Petitioner has been unable to modify the annuity payments from the original terms to allow monthly payments, which combined with her income would sustain payments of **\$5,625.00 per month** to her residential facility; it is anticipated that additional funds will be necessary to sustain the Conservatee in her present environs.

~Please see additional page~

Petitioner states, continued:Causes of Action:

1. **Breach of Fiduciary Duty:** Respondent as Successor Trustee owed a fiduciary duty to the Petitioner and Respondent had a duty to exercise the utmost care, integrity, honesty and loyalty in her dealings with Conservatee's property in her capacity as attorney in fact for Conservatee or in her capacity as trustee of Conservatee's Trust; in breach of her fiduciary duty, Respondent deposited Trust funds into her own personal account; she took Conservatee's funds and used them for her own benefit, she took possession of Conservatee's personal property and the proceeds from sale of such property and converted those funds to her own use; the actions of Respondent accrued to the detriment of the Conservatee; Respondent know or should have known that her acts would accrue to the detriment of the Conservatee and that she did all of these acts in patent "bad faith" with the intent of depriving the Conservatee of her property without good and sufficient consideration and in violation of her duty to the Conservatee;
 - Respondent has not rendered an account of her administration of the personal property and funds of Conservatee as required by law, and has not accounted to Conservatee or her legal representative for her actions as to the Conservatee's assets and their disposition; she has provided inaccurate and incomplete information regarding the assets taken for her benefit; **Petitioner requests the Court order Respondent to render a verified detailed account of her handling of the financial and personal affairs of the Conservatee from 12/1/2007 to the present and to serve that account to Petitioner within 90 days of the hearing.**
 - Respondent owed the Conservatee a duty to act in scrupulous good faith and absolute candor; Respondent breached her fiduciary duty to the Conservatee by failing to preserve the Conservatee's property, failing to deal impartially with the Conservatee's assets, failing to administer the affairs in Conservatee's best interest, failing to keep the Conservatee and her representatives reasonably informed, failing to keep Conservatee's property separate from her own property, converting Conservatee's property to her own use and enjoyment, and failing to maintain cash held on behalf of Conservatee in interest bearing accounts; Respondent should be ordered to respond in damages for each and every breach of fiduciary duty, wrongful act and/or both as provided for in the law;
 - Respondent's acts in this matter constitute breach of fiduciary duty, as she engaged in self-dealing, she breached her duties of loyalty and impartiality, and all acts of Respondent alleged herein were patently unfair and prejudicial to the interest of the Conservatee and her estate; Respondent failed to observe the directions and intent of the Settlers as expressed in their Trust, and all acts of Respondent in regards to the Trust were done "in bad faith" with intent to deprive Conservatee of property to which she is rightfully entitled and constitute breach of trust; **Petitioner alleges Conservatee is entitled to damages with interest as provided in the Code, or in the alternative that Respondent be ordered to pay damages in an amount equal to double the value of all property taken, concealed and/or disposed of by Respondent in bad faith according to proof.**
 - Petitioner alleges Respondent did all of the acts alleged with the intent to deprive the Conservatee of her property while she held a fiduciary relationship with Conservatee, and that any and all actions of Respondent were in violation of her fiduciary duty and **should be adjudged voided and set aside, and the assets or the value of the assets should be ordered returned and any loss incurred should be surcharged against Respondent.**

~Please see additional page~

Causes of Action, continued:

2. **Conversion:** The acts of Respondent as set forth constitute conversion of the Conservatee's property; Respondent without legal claim, privilege or right seized and disposed of the tangible personal property of the Conservatee, the Conservatee and/or her estate sustained damages thereby equal to the value of the property at the time it was converted by Respondent; **Respondent should be ordered to respond in damages proximately caused by her actions.**
3. **Abuse of an Elderly Person:** For a time period to be proven at trial, but no later than December 2007, the Conservatee was elderly, suffering from diminished mental capacity and was easily subjected to be taken advantage of by designing persons such as Respondents; with knowledge of this, each Respondent schemed to take advantage of the Conservatee and intended to cheat her out of her interest in the property; in furtherance of said scheme, which each Respondent concealed from the Conservatee, each Respondent exercised complete dominion and control over the Conservatee's assets and gained knowledge of her assets and property; the conduct of each Respondent resulted in the deprivation of Conservatee's assets which are necessary for her care and ongoing maintenance;
 - The conduct of each Respondent constitutes financial abuse under Welfare & Inst. Code § 15657 as defined in § 15610.30; each Respondent is guilty of recklessness, oppression, and fraud, and acted with malice against the Conservatee in the commission of the abuse; the conduct of each Respondent was in no way for the benefit of Conservatee and was willful and wanton, and was intended to cause injury to her; **the Conservatee is entitled to an award of exemplary or punitive damages;**
 - **Under Welfare & Inst. Code § 15657(a), each Respondent is liable to the Conservatee for reasonable attorney fees and costs, including reasonable fees for the services of the Public Guardian, as Conservator of her Estate, and their attorney for his services provided to litigate this claim necessitated by conduct of each Respondent.**
4. **Constructive Trust:** Respondent Greggains and the unnamed Respondents each have wrongfully taken, transferred, concealed and otherwise deprived the Conservatee of funds and/or personal property which rightfully belongs to her, and they therefore have become the involuntary trustees of said property for the benefit of the Conservatee; **Respondents should be ordered to surrender and deliver said property to the Conservatee and/or the Petitioner, her legal representative.**

Petitioner prays the Court Order:

1. Respondent must render a detailed and correct account for all property held and administered by her, either as Trustee and/or as agent under her power of attorney within 90 days of the date of the initial hearing, for the period from 12/1/2007 to the date she surrendered the Conservatee's funds and property to the Public Guardian;
2. Respondent must respond in damages for all property taken and/or wrongfully appropriated by her, or for funds and/or property that is missing or unaccounted for, together with interest at the legal rate per annum, from the date of the breach of trust and/or fiduciary obligation;
3. Respondent must respond in damages together with interest at the legal rate per annum from the date of breach of trust and/or fiduciary obligation;
4. Respondent and the unnamed Respondents must respond in exemplary damages for their outrageous, reckless ness, oppressive, fraudulent and malicious conduct in this matter;

~Please see additional page~

Petitioner prays the Court Order, continued:

5. In the alternative, Respondents must respond in damages in an amount equal to twice the value of property taken, concealed and/or disposed of by her "in bad faith;"
6. Respondent and the unnamed Respondents must respond in actual damages caused to the Conservatee by their conversion of her tangible personal property;
7. Respondent and the unnamed Respondents are found guilty of elder abuse and are assessed all the damages afforded the Conservatee under the law, including actual damages, exemplary damages, and attorney fees and costs;
8. A Constructive Trust is imposed on all assets taken by the Respondent and the unnamed Respondents for any property and sums the Court determines are rightfully due the Conservatee for their wrongful conduct; and
9. Attorney's fees and costs of suit are awarded as provided for in the law.

Atty Motsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)

(1) Second Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorneys (Prob. C. 2620, 2623, 2640, 2942)

Age: 89 years DOB: 8/11/1922	PUBLIC GUARDIAN , conservator, is petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>Continued from 4/17/2012.</u> Minute Order states the hearing date of 5/9/2012 previously set is confirmed by counsel.
	Account period: 1/20/2010 – 1/19/2012	
	Accounting - \$313,100.83 Beginning POH - \$287,627.99 Ending POH - \$140,331.40	
Cont. from 032712, 041712		
Aff.Sub.Wit.		
✓ Verified	Conservator - \$3,660.40 (26.95 Deputy hours @ \$96/hr and 14.20 Staff hours @ \$76/hr)	
Inventory		
PTC		
Not.Cred.	Attorney (County Counsel)- \$690.00 (4.6 hours @ \$150/her)	
✓ Notice of Hrg		
✓ Aff.Mail W/	Attorney (Motsenbocker) - \$6,863.83 (25.50 hours @ \$250/hr plus filing fee of \$395.00 and Fed Ex copies of \$93.83)	
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.	Bond fee - \$1,510.50 (o.k.)	
Conf. Screen		
Letters	Petitioner prays for an Order:	Note to Judge: Please set a status hearing for the filing of the Third Account as follows:
Duties/Supp	1. Approving, allowing and settling the Second Account and Report of Conservator;	• March 2013 if a one year accounting is due or;
Objections	2. Authorizing conservator's compensation;	• March 2014 if a two year accounting is due.
Video Receipt	3. Authorizing payment of attorney fees;	
✓ CI Report	4. Authorizing payment of the bond fee.	Reviewed by: KT / LEG
9202		Reviewed on: 5/4/12
✓ Order		Updates:
Aff. Posting	Court Investigator Jennifer Young's Report filed on 1/24/12 recommends the conservatorship continue as is.	Recommendation:
Status Rpt		File 5B - Fly
UCCJEA		
Citation		
FTB Notice		

Att’y Motzenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
Att’y Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
Att’y J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)

Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, Etc., and Objection to Second Account of Conservator [Prob. C. 4541 et seq.; 1720 et seq; 850 et seq.; 16440(b) et seq; W & I Code 15657.5]

Age: 89 years		VIRGINIA GREGGAINS (aka "GINGER"), daughter, is Respondent.	NEEDS/PROBLEMS/COMMENTS:
DOB: 8/11/1922			
		<p>Respondent states:</p> <ul style="list-style-type: none"> • She is the only child of Elmer and Julia Fly; prior to Elmer's death on 11/8/2008, he was under a conservatorship with the PUBLIC GUARDIAN as Conservator (Case 08CEPR00829), and those proceedings were concluded in 2010; • Julia continues under conservatorship with the Public Guardian as Conservator of her person and estate; • Elmer and Julia entered into a trust designated as the ELMER V. AND JULIA B. FLY TRUST, in which they declared they held various assets as Trustees; • On 9/25/2000, Elmer and Julia executed an AMENDED AND RESTATED DECLARATION of the Trust (<i>copy attached as Exhibit A</i>); • On 2/7/2008, Julia as Trustor and Trustee signed a purported "Second Amendment" to the Trust (<i>copy attached as Exhibit A-1</i>); • On 3/24/2008, Attorney MELISSA WEBB with [Dowling Aaron], which firm drafted the Flys' restated Trust, met with Julia and at or following that meeting Julia individually and as attorney-in-fact for Elmer executed a "Third" Amendment to the Trust (<i>copy attached as Exhibit A-2</i>); • The Third Amendment reversed the dispositive provisions of the Second Amendment and remains the most recent amendment to the Trust; <p align="center">~Please see additional page~</p>	
Conf. from			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail		W/
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		X
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		<p>Reviewed by: LEG</p> <p>Reviewed on: 5/7/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5C – Fly</p>	

Respondent states, continued:

- Per the Restated Trust as amended by the Third Amendment, all assets are held in trust for the benefit of Elmer and Julia during their lifetimes and during the lifetime of the survivor; following Julia's death, the assets are to be distributed $\frac{1}{2}$ to **Ginger** and $\frac{1}{2}$ to the **Settlor's three grandchildren, ERIC (RICK) GREGGAINS, JULIE BANKS and TINA COX in equal shares;**
- Trust provides that on failure of the initial Trustees Elmer and Julia to act as Trustees, Ginger was to act as Successor Trustee, and the original Trust named **JULIE BANKS**, granddaughter, as an alternate, while the Third Amendment named Ginger's spouse, **STEPHEN ROY GREGGAINS** (Roy) as alternate successor trustee to Ginger;
- On 3/21/2008, Julia also executed a General Durable Power of Attorney (POA) (*copy attached as Exhibit B*), which designated Ginger as attorney-in-fact and Stephen as alternate agent;
- In December 2007, Elmer suffered a massive stroke and heart attack, and was moved several times to different care facilities due to his becoming violent and disruptive, and after a second heart attack, he was moved on 3/5/2008 to Alzheimer's Living Center at Elim ("Elim");
- In June 2008, after Julia's condition declined and was taken by ambulance several times to the hospital, she was required to live at Elim, as she could no longer live with Ginger and her husband in their home in the room they had prepared in August 2007 with safety rails and monitors for Julia and Elmer in the event they were no longer able to live independently;
- From the time of Elmer's hospitalization in December 2008, the family was constantly harangued by Ginger's daughter, **JULIE BANKS** and her husband **JOHN BANKS**, and they also had disrupted the living facilities, and had to be asked to leave or restricted from visiting Elmer and Julia at Elim;
- Elmer had asked John Banks after Elmer's hospitalization to remove guns from under Elmer's bed and put them in the gun safe at his residence; after the gun safe was checked at a later time, it was discovered the guns and **\$5,000.00** cash in the safe was missing; this and the Banks' disruptive conduct caused Julia mental suffering and anguish;
- Ginger and her husband have at all times followed the advice of physicians, hospitals and care providers for the care of Elmer and Julia; Ginger's intent was always to keep them well cared for;
- As it became evident Elmer and Julia would not return to their own residence, Ginger and family members with concurrence of Julia began cleaning out the residence to prepare it for sale with proceeds to be used for their care if needed; 50 years of belongings were sorted through;
- Following Julia's hospitalization, Ginger paid Elmer and Julia's bills, as she was a joint account holder with Elmer and Julia that was previously established, and their monthly **\$4,700.00** in social security and pensions was deposited into the account which was used to pay their bills;
- Ginger's action was taken first as daughter to provide care for her parents, and as attorney-in-fact under the POA; she did not specifically take actions as Trustee though she was designated successor trustee;
- **Medi-Cal planning to preserve assets:** Ginger sought advice regarding Elmer qualifying for Medi-Cal and the Elim staff referred her to **SOUTAS & ASSOCIATES**; Ginger followed their recommendations to qualify Elmer & Julia to receive Medi-Cal for their continuing care; Ginger was advised in order to qualify Elmer & Julia to move a substantial portion of their liquid assets, make certain pre-need arrangements, and that other funds could be transferred by gift in ways that would not cause ineligibility for Medi-Cal;

~Please see additional page~

Respondent states, continued:

- Julia agreed to the proposed plan and actions taken with her authorization included: prepayment of funeral expenses; payoff of loans, reimburse Ginger and her husband for remodeling expenses done for Elmer and Julia; purchase of annuity (**\$159,983.79**); payment of expenses and transfer of funds; and gifting totaling **\$87,000.00** in amounts not exceeding **\$5,000.00** to family members (*during May, June and July 2008; please refer to summary of dates of gifts and donees attached as Exhibit C*);
- Gifts were made to Ginger her husband Roy (**\$69,000**), Ginger's son Eric and his wife Trina (**\$6,000**), Ginger's daughter, Tina and her husband Curtis (**\$12,000**); because Julie Banks had removed herself from the family and adopted an adversarial position, Julie was not the recipient of any gifts;
- The funds gifted to Ginger and her husband were deposited into the account set aside for her parent's benefit at Washington Mutual and were used to pay certain expenses and costs; (*please refer to summary of transactions in the Washington Mutual account containing the \$69,000 gifted funds to Ginger for the benefit of Elmer and Julia, attached as Exhibit E*);
- Following appointment of Public Guardian as Conservator, the funds in the Washington Mutual account were transferred on 1/13/2009 to Deputy **YOUA HER** along with other accounts in Elmer and Julia's names; unfortunately, by transferring the funds back to Julia's name, the Flys no longer qualified for Medi-Cal;
- **Allegations regarding personal property:** In spring 2008, Ginger and family cleaned up the residence for sale, and held a yard sale where **\$1,400** was received and paid to Eric and Tina and their spouses for the work in readying the property for sale; the payment of **\$1,116** was for hauling away the remaining junk; this information is detailed in an email to Deputy Youa Her on 10/19/2008 (*copy attached as Exhibit G*); Ginger was acting within her POA authority in taking these actions;
- The vehicles were a 1994 truck which was given by Elmer and Julia gave to their grandson Rick and Rick's wife Trina insisted on paying **\$800.00**, and a check was given to Julia when she was managing her own finances; the 2004 Nissan Pathfinder was transferred to Trina in June 3008, as Julia signed it over to Ginger, but Ginger did not need it; the travel trailer acquired in 2006 for taking Julia and Elmer to Idaho had a loan balance due (purchase was made by turning in Ginger and Roy's own trailer as down payment) and per the Souta's recommendation the loan was paid off and trailer sold;
- Respondent (Ginger) is concerned that the Public Guardian's unwinding the annuity has been draining Julia's funds rather than having Julia's expenses paid in part by Medi-Cal, and that the funds will be dissipated more quickly than anticipated; Respondent has been advised that Elmer's pension could be received by Julia and provided this information to the Public Guardian, but they have failed to take action to secure these benefits;
- **Respondent's defense to the accusations of breach of fiduciary duty:** In all of Respondent's dealings she undertook whether under power of attorney or as trustee of her trust, she was in direct communication with her parents concerning the transactions; Julia was fully advised of the transactions and agreed to the gifts, to the Medi-Cal qualification and ratified the gifts and transactions taken on her behalf; Julia (the Conservatee) suffered no detriment as a result of the transactions and in fact Conservatee was benefited by enabling Medi-Cal qualification; at no time did Ginger act recklessly, wantonly or in bad faith, nor did she ever intend to deprive Julia of her property for any purpose; in all actions Ginger took on behalf of her mother and father, she acted with utmost good faith and fairness, with intent to enhance the quality of their living situation and to preserve their assets for their use; any actions taken were authorized under the POA, and all acts and transactions were reported to the Public Guardian Deputy Youa Her and information was fully and completely provided again and again;

~Please see additional page~

Respondent states, continued:

- If the Court determines that in some manner Respondent breached her fiduciary duty by an act not authorized by the trust, the POA or by express consent of Elmer or Julia, Respondent requests that any such breach be excused per Probate Code § 16440(b) such that the financial benefit accruing to Elmer and Julia exceeded any possible loss that might have arisen as a result of Respondent's actions which were taken reasonably and in good faith;
- **Conversion. Elder Financial Abuse. Constructive Trust:** Respondent denies that any of her acts as set forth in the petition with respect to Julia's property constitute conversion as claimed and denies any liability therefor; Respondent denies any financial elder abuse, as Julia did not suffer diminished mental capacity and remained aware of her financial affairs; Respondent has made it known to the Public Guardian that Julia was distraught over actions of harassment and physical and financial abuse by the Banks, but they have taken no actions to explore the charges; Respondent denies that she has wrongfully taken, transferred, concealed or otherwise deprived Julia of funds or personal property and denies she is the voluntary trustee of said property;
- **Respondent believes that Petitioner in bringing these allegations is bringing this petition in bad faith, despite having been in possession of the information set forth in this response, and the Public Guardian should be required to pay damages and attorney's fees to Respondent.**

Respondent's Objection to Petition and to Conservator's Second Account:

- Respondent renews her objection to the Conservator's Second Account that the Conservator has failed to obtain survivor's benefits due to the Conservatee from the Veteran's Administration;
- Respondent further objects to the bringing of the petition in that at all times since Petitioner's appointment as Conservator, Petitioner has been in possession of much of the information which is once again requested in the petition;
- Respondent further objects to the Public Guardian's petition to the extent that the account requests attorney's fees (which will further dissipate the estate) for the research and bringing of such a petition which will not benefit the Conservatee and will further reduce the assets available for her care, now that the Public Guardian has decimated the Medi-Cal planning that would have preserved assets for the Conservatee's benefit.

Respondent requests:

1. That the information set forth herein be accepted by the Public Guardian, and that upon its review the Public Guardian determine that Respondent has adequately and fully accounted for actions taken on behalf of Elmer and Julia Fly;
2. That the request of the Public Guardian for damages of any sort whatsoever be denied;
3. That the Court ratify, confirm and approve all acts taken by Respondent whether as attorney-in-fact under the POA or as trustee of the Elmer V. Fly and Julia Fly Trust as set forth herein; and
4. That the attorney's fees necessarily incurred by Respondent in responding to the allegations of the petition be paid by Petitioner.

Order to Show Cause Re: Proposed Sanctions in the amount of \$500

DOD: 12/28/10		CAROL OWENS , daughter, was appointed temporary Conservator of the Person and Estate with bond set at \$30,000.00 on 02/10/09.	NEEDS/PROBLEMS/COMMENTS: As of 05/01/12, no additional documents have been filed.
Cont. from		Conservator filed a bond in the amount of \$30,000.00 on 03/09/09.	
Aff.Sub.Wit.			
Verified		CAROL OWENS , daughter, was appointed Conservator of the Person and Estate and Letters were issued on 08/06/09.	
Inventory			
PTC		Order settling 1 st Account and Report of Conservator was filed 11/03/10.	
Not.Cred.			
Notice of Hrg		Conservatee died on 12/28/10.	
Aff.Mail			
Aff.Pub.		Notice of Status Hearing filed 01/27/12 set a Status Hearing Re: Termination of Proceeding for Deceased Conservatee on 04/04/12. Clerk's Certificate of Mailing states that the Notice of Status Hearing was mailed to Conservator and attorney Kathleen Bakergumprecht-Davies on 01/27/12.	
Sp.Ntc.			
Pers.Serv.		Minute Order from status hearing on 04/04/12 states: No Appearances. The Court sets the matter for an Order to Show Cause on 05/09/12 regarding the proposed sanctions in the amount of \$500.00. The Court orders Ms. Bakergumprecht-Davies and Mr. Owen to be present on 05/19/12.	
Conf. Screen			
Letters		Clerk's Certificate of Mailing filed 04/09/12 states that a copy of the Minute Order dated 04/04/12 was mailed to Kathleen Bakergumprecht-Davies on 04/09/12.	
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Reviewed by: JF
Reviewed on: 05/01/12
Updates:
Recommendation:
File 6 - McElroy

Amended First Account Current and Report of Conservator and Petition for its Settlement

Age: 84		KA'REN VARTAN KETENDJIAN, Nephew and Conservator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
DOB: 11-7-27			
		Current bond: \$140,910.00 (sufficient)	<p><u>Note:</u> Petitioner is an attorney, but is self-represented as Conservator in this proceeding.</p> <p><u>Note:</u> Petitioner provides an alternate summary using an estimated current value for the real property and showing a loss based on that estimate. Examiner notes that no loss has been realized, and the appraised value will continue to be the carry value until reappraised for sale or other purpose. <u><i>There does not appear to be a reason to reappraise or show a loss at this time.</i></u></p> <p><i>(This note does not affect approval of the accounting; it is just an observation for future petitions.)</i></p> <p>1. Need order.</p>
		Account period: 1-1-10 through 12-31-11	
Aff.Sub.Wit.		<p>Accounting: \$378,955.25</p> <p>Beginning POH: \$362,510.46</p> <p>Ending POH: \$341,592.10 (\$81,592.10 is cash)</p> <p>Conservator: Not requested</p> <p>Petitioner prays:</p> <ol style="list-style-type: none"> That this account and report be approved and settled; That the acts of the Conservator shown in the account and report be approved; That the Court grant such other and further relief as it deems just and proper. <p>Court Investigator Charlotte Bien filed a report on 2-1-12.</p>	
✓ Verified			
Inventory			
PTC			
Not.Cred.			
✓ Notice of Hrg			
✓ Aff.Mail	w/o		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
Order	X		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
			Reviewed by: skc
			Reviewed on: 5-3-12
			Updates:
			Recommendation:
			File 7 - Ketendjian

(1) Second and Final Account and Report of Conservator, (2) Petition for Allowance of Compensation to Conservator and Attorney (Prob. C. 1860, 2620, 2623, 2630, 2942)

DOD: 01/24/12			PUBLIC GUARDIAN , Conservator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
			Second Account period: 08/16/11 – 01/24/12	
Cont. from			Accounting - \$14,240.74	
<input type="checkbox"/>	Aff.Sub.Wit.		Beginning POH - \$4,465.88	
<input checked="" type="checkbox"/>	Verified		Ending POH - \$1,149.13	
<input type="checkbox"/>	Inventory		Subsequent Account period: 01/25/12 – 03/08/12	
<input type="checkbox"/>	PTC		Accounting - \$4,312.67	
<input type="checkbox"/>	Not.Cred.		Beginning POH - \$1,149.13	
<input checked="" type="checkbox"/>	Notice of Hrg		Ending POH - \$1,436.49	
<input checked="" type="checkbox"/>	Aff.Mail	w/	Conservator - \$1,392.40 (10.15 Deputy hours @ \$96/hr. and 5.5 Staff hours @ \$76/hr.)	
<input type="checkbox"/>	Aff.Pub.		Attorney - \$583.31 (per Local Rule)	
<input type="checkbox"/>	Sp.Ntc.		Bond Fee - \$25.00 (ok)	
<input type="checkbox"/>	Pers.Serv.		Petitioner requests that, due to the insufficiency of the estate to pay the fees and commissions, that a lien be imposed upon the estate for any unpaid balances of the authorized fees and commissions.	
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			Reviewed by: JF
<input type="checkbox"/>	Duties/Supp			Reviewed on: 05/01/12
<input type="checkbox"/>	Objections			Updates:
<input type="checkbox"/>	Video Receipt			Recommendation:
<input type="checkbox"/>	CI Report			File 8 – Poole
<input type="checkbox"/>	2620(c)	n/a		
<input checked="" type="checkbox"/>	Order		Petitioner prays for an Order:	
<input type="checkbox"/>	Aff. Posting		1. Approving, allowing and settling the second account and final account;	
<input type="checkbox"/>	Status Rpt		2. Authorizing the conservator and attorney fees and commissions;	
<input type="checkbox"/>	UCCJEA		3. Authorizing payment of the bond fee; and	
<input type="checkbox"/>	Citation		4. Authorizing Petitioner to impose a lien on the estate for any unpaid balances of authorized fees and commissions.	
<input type="checkbox"/>	FTB Notice			

Atty Kruthers, Heather (for the Petitioner/Administrator Public Administrator)

(1) First and Final Account and Report of Successor Administrator and (2) Petition for Allowance of Ordinary and Extraordinary Commissions and Fees and (3) for Distribution [Prob. C. 216; 9202; 10800; 10810; 10951; 11600; 11850(a)]

DOD: 1/1/1996	PUBLIC ADMINISTRATOR , Administrator, is Petitioner.		NEEDS/PROBLEMS/COMMENTS: 1. Need Order
	Account period: 9/13/10 – 10/31/11		
Cont. from 020812, 031912, 041612	Accounting -	\$50,000.00	
	Beginning POH -	\$50,000.00	
Aff.Sub.Wit.	Ending POH -	\$24,070.86	
✓ Verified	Administrator -	\$1,600.00	
✓ Inventory	(statutory)		
✓ PTC	Administrator X/O -	\$1,248.00	
✓ Not.Cred.	(for sale of real property and preparation of tax returns)		
✓ Notice of Hrg	Attorney -	\$1,600.00	
✓ Aff.Mail	(statutory)		
Aff.Pub.	Bond fee -	\$125.00	
Sp.Ntc.	(o.k.)		
Pers.Serv.	Court fee -	\$420.50	
Conf. Screen	(filing fee & certified copies)		
✓ Letters 9/13/10	Closing -	\$500.00	
Duties/Supp	Distribution, pursuant to intestate succession, is to:		
Objections	Larry Ford, Carmen Gant, Yvonne Ford, Shirley Shackelford, Diane Levi, Leo Ford, Tony Ford, Alfred Ford and Garfield Gilbert - \$1,652.94 each.		
Video Receipt	Amanda Ford and Robert Ford, III - \$826.48 each and		
CI Report	Louis Ireland, Lamont Ireland and Kelly Ireland - \$550.98 each.		
✓ 9202			
Order X			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
✓ FTB Notice			
			Reviewed by: KT
			Reviewed on: 5/2/12
			Updates:
			Recommendation:
			File 9 - Ford

Atty Dowling, Michael P. (for Bruce Bickel – Trustee)

Status Hearing Re: Bond

		<p>BRUCE BICKEL, a licensed fiduciary, was appointed Successor Trustee of the Trust on 8-10-11 with bond of \$3,600,000.00. Bond was filed 9-19-11.</p> <p>On 3-7-12, pursuant to Trustee's declaration regarding sufficiency of the bond, the Court ordered the bond increased to \$3,815,000.00 and set this status hearing for filing of the increased bond.</p> <p>If proof of bond is received by 4-4-12, no appearance will be necessary.</p> <p>Minute Order 4-4-12 states: If bond filed, matter may be taken off calendar.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>OFF CALENDAR</p> <p>Proof of Bond filed 5/7/2012 shows bond has been posted by Trustee Bruce Bickel in the amount of \$3,815,000.00.</p> <p><u>Continued from 4-4-12.</u></p> <p><i>As of 5-1-12, increased bond has not been filed.</i></p> <p>1. Need increased bond (total \$3,815,000.00).</p>
Cont. from 040412			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p>Reviewed by: skc / LEG</p> <p>Reviewed on: 5-1-12</p> <p>Updates: 5/7/12</p> <p>Recommendation:</p> <p>File 10 - Johnson</p>	

(1) Waiver of First and Final Account and Report of Co-Administrators and Petition for Settlement Thereof; (2) for Allowance of Attorney's Fees for Ordinary and Extraordinary Services and Costs; and (3) for Final Distribution (Prob. C. 10800, 10801, 10810, 10811, 10954, 12200)

DOD: 07/18/11		SHANNON M. HILL and NICOLE K. BROWN , Co-Administrators, are Petitioners. Accounting is waived. I & A - \$134,400.00 POH - \$64,347.78 Administrators - waive Attorney (statutory) - \$4,999.00 Attorney x/o - \$1,611.00 (for sale of household furnishings, sale of real property, and attempted sale of 2005 Toyota Tundra) Costs - \$1,195.00 (filing fees, publication, certified copies) Closing - \$3,000.00 Distribution, pursuant to intestate succession, is to: Shannon M. Hill - \$22,271.39 cash plus ½ interest in 2005 Toyota Tundra Nicole K. Brown - \$22,271.39 cash plus ½ interest in 2005 Toyota Tundra	NEEDS/PROBLEMS/COMMENTS:
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory		
<input checked="" type="checkbox"/>	PTC		
<input checked="" type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg		
<input checked="" type="checkbox"/>	Aff.Mail w/		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters 09/07/11		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input checked="" type="checkbox"/>	FTB Notice		
		Reviewed by: JF Reviewed on: 05/02/12 Updates: Recommendation: File 11 - Brown	

Atty Amador, Catherine A. (for Sharon Shields - Conservator of the Person and Linda Babcock – Conservator of the Estate)

Atty Rindlisbacher, Curtis D. (Court Appointed for Conservatee)

Probate Status Hearing Re: Filing of Bond

Age: 89	SHARON SHIELDS , was appointed as Conservator of the Person and LINDA BABCOCK , was appointed as Conservator of the Estate with bond set at \$127,600.00 on 02/21/12.	NEEDS/PROBLEMS/COMMENTS:
DOB: 11/05/22		
Cont. from	Minute Order from status hearing on 04/09/12 set this matter for status of filing of the bond.	<p>As of 05/02/12, the bond has not been filed and Letters have not issued.</p> <p>1. Need filing of bond.</p>
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt	Reviewed on: 05/02/12	
UCCJEA	Updates:	
Citation	Recommendation:	
FTB Notice	File 12 - Johansen	

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 2 months DOB: 2/11/2012		<p>There is no temporary. No temporary was requested.</p> <p>LUCAS GARZA, maternal grandfather, is petitioner.</p> <p>Father: JOSE LUIS COLIN – <i>consents and waives notice.</i></p> <p>Mother: CASANDRA GARZA – <i>consents and waives notice.</i></p> <p>Paternal grandfather: Ernest Colin – <i>served by mail on 3/21/12</i> Paternal grandmother: Gregoria Colin – <i>served by mail on 3/21/12</i> Maternal grandmother: Noemi Garza – <i>served by mail on 3/21/12</i></p> <p>Petitioner states the mother and father of the child are both unemployed students without health insurance. The guardianship will allow Petitioner to enroll the child under his policy.</p> <p>Court Investigator Jennifer Daniel's Report filed on 5/3/12 recommends that the guardianship be GRANTED.</p>		<p>NEEDS/PROBLEMS/COMMENTS:</p>	
Cont. from					
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail	W/			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: KT	
				Reviewed on: 5/2/12	
				Updates: 5/7/12	
				Recommendation:	
				File 13 - Colin	

14 Bryan Kent Begbie aka Bryan K. Begbie aka Bryan Begbie (Estate)

Case No. 12CEPR00301

Atty Markeson, Thomas A. (for Sherry Morris Begbie – Spouse/Petitioner)

Petition for Letters of Administration; Authorization to Administer Under IAEA
(Prob. C. 8002, 10450)

DOD: 03/26/12	SHERRY MORRIS BEGBIE , surviving spouse, is Petitioner and requests appointment as Administrator with bond amount to be determined. Full IAEA – NEED Decedent died intestate Residence: Clovis Publication: NEED <u>ESTIMATED VALUE OF THE ESTATE:</u> Personal property - \$175,000.00 Probate Referee: RICK SMITH	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED TO 06/06/12</u> Per request of Counsel 1. Need Affidavit of Publication. 2. Need Order.
Cont. from		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail w/		
<input type="checkbox"/> Aff.Pub. x		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order x		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

Reviewed by: JF
Reviewed on: 05/02/12
Updates:
Recommendation:
File 14 - Begbie

14

Status Hearing Re: Proof of Guardianship in Arizona and Termination of the California Guardianship

Age: 15 years DOB: 1/18/1997	<p>IRENE SHREFFLER, maternal grandmother/guardian, petitioned the court to fix the residence outside of California to Kingman, Arizona.</p> <p>Irene Shreffler was appointed guardian of the person on 9/20/06.</p> <p>Father: GEORGE PLESH</p> <p>Mother: DENISE LEMEN</p> <p>On 7/25/11 the Court granted the petition to move the minor to Arizona ordered that a guardianship or its equivalent would be commenced in Arizona within four months of the order.</p> <p>Minute Order dated 1/23/12 continued the status hearing to 2/22/12 and set an Order to Show Cause Re: Contempt. Irene Shreffler was ordered to be present on 2/22/12.</p> <p>Minute Order dated 2/22/12 states no appearances matter continued to 5/9/12.</p> <p>Order to Show Cause dated 3/5/12 was mailed to Irene Shreffler on 3/5/12 ordering her to appear on 5/9/12 to show cause why she should not be sanctioned for failure to report the status of the guardianship proceedings in Arizona.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Please see page 15B re: Order to Show Cause.</p> <p>1. Need status of guardianship proceedings in Arizona.</p>
Cont. from 012312, 022212		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
<p>Reviewed by: KT</p> <p>Reviewed on: 5/2/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 15A - Shreffler</p>		

Order to Show Cause Re: Contempt

Age: 15 years DOB: 1/18/1997	IRENE SHREFFLER , maternal grandmother/guardian, petitioned the court to fix the residence outside of California to Kingman, Arizona.	NEEDS/PROBLEMS/COMMENTS:
Cont. from 022212	Irene Shreffler was appointed guardian of the person on 9/20/06.	
<input type="checkbox"/> Aff.Sub.Wit.		
<input type="checkbox"/> Verified		
<input type="checkbox"/> Inventory	Father: GEORGE PLESH	
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.	Mother: DENISE LEMEN	
<input type="checkbox"/> Notice of Hrg	On 7/25/11 the Court granted the petition to move the minor to Arizona ordered that a guardianship or its equivalent would be commenced in Arizona within four months of the order.	
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input type="checkbox"/> Pers.Serv.		
<input type="checkbox"/> Conf. Screen	Minute Order dated 1/23/12	
<input type="checkbox"/> Letters	continued the status hearing to 2/22/12 and set an Order to Show Cause Re: Contempt. Irene Shreffler was ordered to be present on 2/22/12.	
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input type="checkbox"/> CI Report	Minute Order dated 2/22/12 states no appearances matter continued to 5/9/12.	
<input type="checkbox"/> 9202		
<input type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting	Order to Show Cause dated 3/5/12 was mailed to Irene Shreffler on 3/5/12 ordering her to appear on 5/9/12 to show cause why she should not be sanctioned for failure to report the status of the guardianship proceedings in Arizona.	
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: KT
		Reviewed on: 5/2/12
		Updates:
		Recommendation:
		File 15B - Shreffler

15B

16 Cesar Gonzalez & Marco Hernandez (GUARD/P) Case No. 09CEPR00574

Atty Sanchez, Isidoro (pro per Guardian)

Atty Sanchez, Elizabeth (pro per Guardian)

Order to Show Cause Re: Contempt Why Cesar Was Moved Outside California to Pennsylvania

Cesar age: 8 years DOB: 11/22/2003	ISIDORO SANCHEZ and ELIZABETH SANCHEZ , non-relative family friends, were appointed guardians of the minor Cesar Gonzalez on 9/28/09, and were appointed guardians of the minor Marco Hernandez on 3/22/10.	NEEDS/PROBLEMS/COMMENTS: This matter concerns Cesar only. Guardianship of Marco was terminated on 11/14/11.
Cont. from 022212		
Aff.Sub.Wit.	Concepcion Hernandez Ministro , mother, petitioned the court to terminate the guardianship.	
Verified		
Inventory	On 11/14/11 the Court granted the termination as to Marco Hernandez only and continued the matter as to Cesar Gonzalez to 1/23/2012.	
PTC		
Not.Cred.	During the investigation the Court Investigator, Julie Negrete, discovered the Guardians had moved to Pennsylvania with the minor Cesar.	
Notice of Hrg		
Aff.Mail	The Guardians did not obtain permission from the court to move with Cesar to Pennsylvania.	
Aff.Pub.		
Sp.Ntc.	At the hearing on 1/23/2012 the Court (Judge M. Bruce Smith) denied the mother's petition to terminate the guardianship as to Cesar and set this Order to Show Cause for the Guardians to appear and show cause why Cesar was moved outside the State of California to Pennsylvania.	
Pers.Serv.		
Conf. Screen	Copy of the Minute Order dated 1/23/12 was mailed to Guardians, Isidoro Sanchez and Elizabeth Sanchez, in Pennsylvania on 1/27/2012.	
Letters		
Duties/Supp	Minute order dated 2/22/12 states there were no appearances and the matter was continued to 5/9/12.	
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		Reviewed by: KT
Status Rpt		Reviewed on: 5/2/12
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 16 – Gonzalez & Hernandez

17 Jazmin J. Alvarado (GUARD/P)
Atty De La Cruz, Alfred (pro per – paternal grandfather/Petitioner)
Atty De La Cruz, Isabel (pro per – paternal grandmother/Petitioner)

Case No. 11CEPR00296

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 6 DOB: 02/06/06		<u>NO TEMPORARY IN PLACE</u>		NEEDS/PROBLEMS/COMMENTS:	
		ALFRED DE LA CRUZ and ISABEL DE LA CRUZ , paternal grandparents, are Petitioners.		<u>CONTINUED FROM 03/28/12</u>	
		Custodian per Family Court case no. 06CEFL04904, maternal great grandmother, MARY GALAVIZ – <i>served by substituted service on 1/28/12</i>		Minute Order from 03/28/12 states: The Court notes for the record that there is no active Family Court matter. The Court orders that a court investigator conduct a further investigation of the petitioners, mother, and Mary Galaviz. Additionally, the Court orders that the investigator check into the status of Mary Galaviz's health issues.	
Cont. from 032812		Father: ERIC DE LA CRUZ , <i>consent and waiver of notice filed 1/26/2012</i>		As of 05/01/12, the following items remain outstanding:	
	Aff.Sub.Wit.			1. It appears that both Mary Galaviz, custodian, and Cecilia Escheveste-Alvarado, mother, were served by substituted service and not personally served. Need proof of personal service at least 15 days before the hearing.	
✓	Verified	Mother: CECILIA ECHEVESTE-ALVARADO – <i>served by substituted service on 1/28/12</i>		2. Need UCCJEA.	
	Inventory	Maternal grandmother: Rosalinda Galaviz (Silva) – <i>served by mail on 01/26/12</i>			
	PTC	Maternal grandfather: Deceased.			
	Not.Cred.	Siblings: MICHAEL ECHEVESTE, JR., AERIEL ECHEVESTE, ANASTANSIA ECHEVESTE – <i>all served by mail 01/26/12</i>			
✓	Notice of Hrg	Petitioners state the mother was recently arrested and incarcerated on 1/23/12. The mother was living at the current guardian's home, caring for the child, despite the current court order which says she must have supervised visitation only. The current guardian is unable to keep the child safe and care for the child properly in her home as she is ill, has recently had a heart attack and continues to allow the child to be in the care of the mother.			
✓	Aff.Mail	w/			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	x			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
	UCCJEA	x			
	Citation				
	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 05/01/12	
				Updates: 05/02/12	
				Recommendation:	
				File 17 - Alvarado	

18 Alfredo Morales-Diaz Jr., Krysta Diaz, Jennifer Pena, Nevaeh Pena and Victor Pena, Jr. (GUARD/P)

Case No. 12CEPR00230

Atty Garcia, Alicia R. (pro per Petitioner/maternal grandmother)
 Atty Ramirez, Arnulfo Jr. (pro per Petitioner/maternal uncle)
 Atty Pena, Odilia Diaz (pro per Objector/mother)
 Atty Martinez Pena, Victor Hugo (pro per Objector/father of Jennifer, Nevaeh & Victor)
 Atty Crowley, Jeremy (for Objector/father of Alfredo & Krysta, Alfredo Morales, Sr.)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Alfredo age: 14 yrs DOB: 1/27/1998	<p align="center"><u>Temporary Expires 5/9/12</u></p> <p>ALICIA GARCIA, maternal grandmother, and ARNULFO RAMIREZ, maternal uncle, are petitioners.</p> <p>Father(Alfredo & Krysta): ALFREDO MORALES, SR. – personally served 3/12/12.</p> <p>Father (Jennifer, Nevaeh & Victor): VICTOR HUGO PENA – personally served on 3/12/12.</p> <p>Mother: ODILIA D. PENA – personally served on 3/12/12.</p> <p>Paternal grandparents (Alfredo & Krysta) – not listed Paternal grandparents (Jennifer, Nevaeh & Victor) – not listed Maternal grandfather: Hector Garcia, Jr.</p> <p>Petitioners state mother is facing federal prison time in Iowa and has abandoned the children in California. Petitioners fear the children will not be cared for properly by the other parent or his family. They are in the U.S. as illegal aliens. Petitioners fear the children will be removed from the country.</p> <p align="center">Please see additional page</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Proof of service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice on:</p> <p>a. Alfredo Morales-Diaz, Jr. (minor age 14)</p> <p>b. Krystal Diaz (minor age 12)</p>
Krysta age: 12 yrs DOB: 4/15/2000		
Jennifer age: 7 yrs DOB: 10/9/2004		
Neveah age: 4 yrs DOB: 7/3/2007		
Victor age: 1 yr DOB: 6/23/2010		
Cont. from		
<input type="checkbox"/> Aff.Sub.Wit.		
<input checked="" type="checkbox"/> Verified		
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail		
W/		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input checked="" type="checkbox"/> Pers.Serv.		
<input checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters		
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input checked="" type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		

Objection to Guardianship filed by Victor Hugo Martinez Pena [father of Jennifer, Neveah and Victor, Jr.] and Odilia Pena [mother] on 3/20/12 states in their petition Petitioners stated the Jennifer , Neveah and Victor, Jr. were residing in Kerman and that Alfredo and Krysta were residing in Mendota. However, all of the children were residing in Nido, California with their objectors. Furthermore, the children's principal place of residence was in Merced County and not in Fresno County. The parents believe Merced County should hear the matter of the guardianship since the children are residents of Merced County.

Objectors state that the proposed guardians are both unfit. Arnulfo Ramirez Jr. has a criminal history. On 1/23/2002 he was charged with PC261.5 (sex act with a minor). At the time Arnolfo ran out of the State of California. On 5/21/2002 he pled Nolo Contendere. In addition, the maternal grandfather is a registered sex offender.

Odilia [mother] was arrested in Iowa for transporting drugs and was incarcerated for two days. Odilia was released and allowed to come to California. She went back to Iowa for a second hearing. The children were residing with their father. On 3/2/12 the grandmother asked the father to allow her to visit and he did. On 3/4/12 the grandmother refused to return the children. After Ocilla found out the children were being concealed by her mother she attempted to speak with the children but the grandmother would not let her communicate with her children. On Monday Victor went for the children, it was shortly after that that the grandmother filed for guardianship. Odila has another court date on 3/26/12.

The proposed guardians' claims that the children will be removed from the State of California by their illegal father are untrue. Victor has no reason to return to Mexico and has nothing that ties him to that country. Victor has a steady job at a dairy farm in Merced County and his family is residing there as well.

Objector prays that the guardianship be denied and the children returned to their parents.

Objections of Alfredo Morales-Ramos, father of Alfredo and Krysta, filed on 5/7/12. Objector states there has been no evidence provided to the court that the children would suffer any detriment or harm in the father's care. Objector states he was never properly noticed of the guardianship by Petitioners Alicia Garcia and Arnulfo Ramirez, Jr. The mother and father had reached an agreement that the children would reside with the father in Nebraska. On 3/12/12 father states he picked up the children in Mendota and returned to Nebraska. Upon returning to Nebraska, father states he enrolled the children in school. On 3/20/12 father states he was notified by mail that Alicia and Arnulfo had filed for guardianship. Objector state she was not given time to respond or even understand the guardianship petition. Father states he appeared via Court Call at the temporary hearing at which time the Court ordered him to return his children to Fresno, which he did by 3/25/12.

Please see additional page

Dept. 303, 9:00 a.m. Wednesday, May 9, 2012

Objections of Alfredo Morales-Ramos, father of Alfredo and Krysta, filed on 5/7/12 continued.

Objector states he is concerned with the children's well-being while in the care of Petitioners. Since the children have been in the care of Petitioners their cell phones were taken away and father states he has not been able to communicate in any way with his children. On 5/2/12 Krysta call her father from school using a friend's cell phone in order to communicate with her father. Krysta told her father that Alicia had taken away her cell phone. Objector states he is concerned that the Petitioners are telling his children that he is a bad person, and they should not want to be with him. Objector is also concerned that Petitioners make the children pray on their knees for hours at a time. Krysta and Alfredo have also told their father that they have been hit and have seen the other children hit by Alicia and Arnulfo. The children told Objector that they have been hit with a belt or with a sandal by Alicia.

Objector believes it is in the best interest of his children that they be returned to his care and live with him in Nebraska.

Court Investigator Julie Negrete's Report filed on 5/3/12.

Petition for Appointment of Temporary Conservator of the Person and Estate (Prob. C. 1510)

Age: 79 years DOB: 6/30/1932		Temporary granted ex parte on 4/30/12. Temporary Expires on 5/9/12.	NEEDS/PROBLEMS/COMMENTS:
		<u>General Hearing 6/6/12.</u>	Court Investigator Advised Rights on 5/2/12.
Cont. from		PUBLIC GUARDIAN is petitioner and requests appointment as temporary conservator of the person and estate.	
	Aff.Sub.Wit.		
✓	Verified	Estimated value of the estate: Personal property - \$24,370.56	
	Inventory		
	PTC	Petitioner states the proposed conservatee had been residing in her own home. She has since been moved into one of her son's home. Although this appears to be adequate at the time, she has reportedly been physically violent with a recent care provider, most likely due to her dementia. In addition, there is another child with whom there is a conflict. Because of the conflict, the Public Guardian seeks her own appointment as temporary conservator.	
	Not.Cred.		
✓	Notice of Hrg	Court Investigator Samantha Henson's Report filed on 5/3/12.	
✓	Aff.Mail		
	Aff.Pub.	Reviewed by: KT	
	Sp.Ntc.		
	Pers.Serv.	Reviewed on: 5/2/12	
	Conf. Screen	Updates: 5/8/12	
✓	Letters	Recommendation:	
	Duties/Supp	File 19 - Steinhauer	
	Objections		
	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		